



THE ATTORNEY GENERAL OF TEXAS

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AUSTIN, TEXAS 78711

November 13, 1973

The Honorable James D. Cole
House Administrator
State of Texas
House of Representatives
Austin, Texas

Letter Advisory No. 71

Re: Authority to purchase
Certificates of Service

Dear Representative Cole:

The facts presented by your letter of October 3rd indicate that on September 14, 1973, the purchasing agent for the House of Representatives submitted to the Comptroller of Public Accounts a purchase order for 180 certificates of service to be given to members of the House of Representatives. There were two bids, each for 180 certificates at \$2.00 per certificate, making the total amount involved \$360.

The Comptroller returned the purchase order with the inquiry: "Where is authority to purchase certificates to give away?" In response, you referred him to § 10 of Article V of House Bill 139 of the 63rd Legislature, the Appropriations Act for the 1974 and 1975 fiscal years. That section, under the heading "LIMITATIONS ON USE OF OTHER EXPENSE FUNDS FOR PAYING SALARIES AND WAGES," provides, in part:

"As compensation in addition to that otherwise provided by this Act, departments and agencies covered by this Act in Articles I through VI, are authorized to purchase and present to their respective employees at periodic intervals under such rules and regulations as have been or may be adopted by the respective agencies named hereinabove, service award pins and certifications for longevity of service and safety award pins and certificates for safe operation of State equipment and awards for such special professional achievement and other outstanding service. Such awards will be limited to lapel pins, tie clasps, plaques, loving cups, engraved certi-

ificates or other awards of a similar nature and shall be purchased through the Board of Control. "

In response, the Comptroller on September 27, 1973, stated:

"In reply to your inquiry concerning the purchase of certificates, I wish to call to your attention the first few words in the rider which you call to my attention which are as follows: 'As compensation.' "

The Comptroller furnished you with copies of Attorney General Opinions M-408 (1969) and M-582 (1970). The latter opinion has to do with the purchase of group insurance for state highway department employees and we do not believe it is in point. The former opinion, having to do with the purchase of insurance for legislators, is, in our opinion, pertinent.

In that opinion several constitutional questions were raised concerning the payment of premiums for insurance for members of the Legislature. One of those was that it was in violation of Article 3, § 24, of the Constitution which provides, in part:

"Members of the Legislature shall receive from the Public Treasury an annual salary of not exceeding Four Thousand, Eight Hundred Dollars, (\$4800) per year and a per diem of not exceeding Twelve Dollars (\$12) per day for the first one hundred and twenty (120) days only of each Regular Session and for thirty (30) days of each Special Session of the Legislature"

That opinion concluded that the benefit to each member of the Legislature from the payment of insurance premiums was not an additional "salary," "per diem" or "mileage." It went on to say:

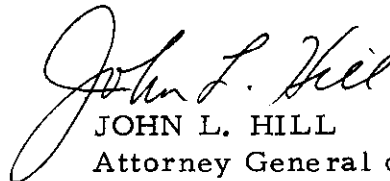
"It is likewise shown that 'compensation' includes salary but may not in all cases mean the same thing, depending upon the context in which it is used. It is our opinion that the meaning of 'salary' as used in the constitution must be given its plain and ordinary literal meaning, that is, salary compensation, and does not

necessarily include every benefit or perquisite arising from the possession of the office. The Constitution does not provide that no other emolument, perquisite, or benefit may be enjoyed by members of the legislature. . . ."

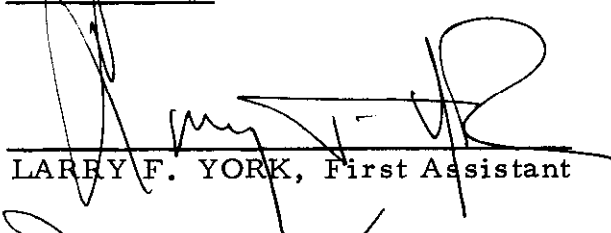
While the granting of a certificate may be "compensation" in the same sense that a word of praise may be compensation, nevertheless, we do not believe that it is "salary," and we find nothing in Article 3, § 24, which denies legislators the right to receive accolades for services rendered, whatever form they may take, provided that the form is not additional salary, per diem or mileage.

We further find that the language of the appropriation to the House of Representatives for its general expenses in House Bill 139 (p. VI-1) is sufficiently broad to authorize the expenditure of \$360 for the purchase of the certificates in question. Your specific question to us was whether the House of Representatives was legally authorized to use appropriated funds for the purchase of these certificates in question. Our answer is that it is.

Yours very truly,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee